

SENATE BILL REPORT

SB 5377

As of January 18, 2007

Title: An act relating to the disposition of certain assets.

Brief Description: Disposing of certain assets.

Sponsors: Senators Weinstein and Kline.

Brief History:

Committee Activity: Judiciary: 1/16/07.

SENATE COMMITTEE ON JUDICIARY

Staff: Dawn Noel (786-7472)

Background: Washington law contains provisions regarding the distribution of assets following one's death. Currently, if one dies without a will, that person's assets are, by default, distributed to relatives depending on closeness in relation to the deceased, with spouses and children having priority. "Nonprobate assets" are those assets distributed by means other than a will, such as by beneficiary designation, as with certain accounts. An ex-spouse of the deceased is ineligible to inherit nonprobate assets from the deceased unless certain legal documentation provides otherwise. If spouses die close to the same time, and insufficient evidence exists to indicate that the individuals died other than simultaneously, each individual's property is distributed to that individual's relatives, rather than to the relatives of the other spouse. Concern exists regarding litigation in which the representative of one spouse's estate attempts, through the use of gruesome evidence, to prove that one spouse outlived the other by an instant or two.

Summary of Bill: The default method of asset distribution is extended to deceased persons generally, rather than to only those persons who die without wills. It is clarified that a child who is conceived prior to the death of the parent, but born after the parent's death, is eligible to inherit from the deceased parent. It is also clarified that an ex-spouse is ineligible to inherit from the deceased unless, by virtue of a subsequent marriage, they are married at the time of the deceased's death. Further, a decree of separation, by itself, is ineffective to defeat a spouse's eligibility to inherit from the deceased. The provisions governing an ex-spouse's inheritance of nonprobate assets apply, regardless of whether the deceased and the ex-spouse were divorced in Washington. The definition of "nonprobate asset" is expanded to include brokerage accounts, other accounts governed by beneficiary designation, and several types of bank accounts.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

To contest the validity of a will, the party contesting the will must file a petition with the court within four months following probate proceedings, and personally serve the representative of the estate with a copy of the petition within 90 days of filing the petition. A court presiding over disputes regarding inheritance may order the payment of attorney fees to any party. In using its discretion, the court may consider all factors it deems relevant, which may, but need not, include whether the litigation benefits the estate or trust involved.

In order for one spouse to inherit from the other, the spouse must survive the other by 120 hours.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill discourages litigation by the estate of one spouse against the other spouse's estate when spouses die close in time to one another when involved in a common accident. This bill is part of uniform legislation adopted throughout the country. Legislation proposed by the Washington State Bar Association typically does not involve major policy decisions; it often involves streamlining the law, bringing the law to conform with reality, or with a court decision. The intent of such legislation is to make the law easier to understand for practitioners and the public.

Persons Testifying: PRO: Senator Kline; Tim Burkart, Real Property, Probate and Trust Section, Washington State Bar Association.